

**REMARKS-General**

1. The newly drafted independent claim 45 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 45-60 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

2. With regard to the rejection of record based on prior art, Applicant will advance arguments to illustrate the manner in which the invention defined by the newly introduced claims is patentably distinguishable from the prior art of record. Reconsideration of the present application is requested.

**Response to Rejection of Claims 23-44 under 35USC103**

3. The Examiner rejected claims 23-44 under 35USC103(a) as being unpatentable over Powell (US 2001/0032189) in view of Shkedy (US 6,260,024), Kuelbs (US 7,136,830) and further in view of Official Notice. Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

4. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

5. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Powell which is qualified as prior art of the

instant invention under 35USC102(e) are obvious in view of Shkedy, Kuelbs and Official Notice at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

6. The applicant respectfully submits that the differences between the instant invention and Powell are not obvious in view of Shkedy, Kuelbs and Official Notice under 35USC103(a), due to the reasons explained below.

7. Regarding the newly drafted independent claim 45, Powell, Shkedy and Kuelbs fail to anticipate a Consumer-to-Business method for consolidating consumer powers in activating market economy, comprising the steps of:

(a) providing a Consumer-to-Business (C2B) network, and a central processing web site which is run and managed in a Central Processing Center (CPC) through the Consumer-to-Business (C2B) network;

(b) accepting registration of one or more invention products in an information database of the C2B network, and storing invention information of the invention products provided by inventors;

(c) **storing information given by registered consumers regarding to specific needs of product in the information database of the C2B network**, and inviting the registered Consumers to place acceptable purchasing prices for at least one of the registered invention products respectively, wherein each of the registered consumers are **invited to take part into surveys regarding interests and needs in the invention products**, wherein the information provided by the registered consumers is stored into a purchasing database, wherein the invention product and invention information **are carefully verified to ensure that the invention products registered in the C2B network are in the state of reduction-to-practice**;

(d) matching at least one invention product in the information database with the information provided by the registered consumers regarding the specific needs of the product, and using purchasing data analyzed and grouped from the information provided by the registered consumers **to estimate an actual number of orders needed for each of the registered invention products** when the purchasing price suggested by

the registered consumers is equal to or more than the suggested selling price of the relevant registered invention product;

(e) accepting orders of at least one of the invention products through the Consumer-to-Business (C2B) network from at least one of the registered consumers, in such a manner that the registered consumer is able to decide to selectively purchase the corresponding invention products at a predetermined volume and a predetermined price, and requesting payments from the registered consumers for the ordered invention products of the registered consumers, wherein the registered consumer is also allowed to designate a place for picking up the invention products;

(f) determining and contracting with one or more suppliers as contracted suppliers to produce the ordered invention products at the predetermined volume as ordered by the corresponding registered consumers by the steps of analyzing the purchasing database by the Central Processing Center (CPC) to determine most demanded invention products from the registered invention products requested by the registered Consumers and leave other the registered invention products with lower demands for further uses, locating potential suppliers and negotiating for best terms and specifications of the demanded invention products by the Central Processing Center (CPC), and placing deposit from the registered Consumers directly to the contracted Supplier upon agreement made between the Central Processing Center (CPC) and the contracted Supplier; and

(g) delivering the order product from the contracted suppliers to the designated place of the registered consumer respectively.

8. Powell generally discloses a method and apparatus for effectuating bilateral commerce in ideas. The system disclosed in Powell is both an originator-(400) and user-driven (300) online commercial network system designed to facilitate idea submission, purchase and licensing and is easily adapted to business-to-business transfers of innovation as well as consumer-to-business transfers of innovation (Powell, Abstract). The invention disclosed in Powell allows originators of ideas to communicate nondisclosing synopses of ideas globally to potential users, for users conveniently to search for relevant ideas and for users potentially to bind an originator (400) to a limited duration license (120a) granting user the exclusive right to access and consider

confidentially the originator's fully disclosed idea (130a). The invention also allows users (300) to communicate confidentially or nonconfidentially unsolved problems or needs globally to potential originators, for originators conveniently to search for relevant unsolved problems. **Powell does not cater for supply and demand problems for inventors and potential purchasers.**

9. Powell discloses a method of using a computer to conduct a transaction between a user and an originator, comprising the steps of inputting into the computer a basic description and a corresponding detailed description of the user's unmet need or unsolved problem; permitting the originator to access the basic description of the user's unmet needs or unsolved problems; for the basic description, providing the originator an option to access the corresponding detailed description by agreeing to an **online license agreement**; inputting into the computer an **indication of agreement** by the originator to the online license agreement; and providing the originator with access via the computer to the corresponding detailed description (Powell, Claim 1). In other words, Powell simply does not cater for production and delivery of any licensed product. Moreover, Powell's system does not concern with reduction to practice aspect of the invention registered by inventors. In short, the patentable subject matter of Powell and the patentable subject matter disclosed in the instant invention are totally different.

10. The patentable subject of the instant invention is to focus on the supply-demand aspect of invented products, and to resolve the deep-seated problem of unpredictable demand of newly invented products. For a newly invented product, it is impossible for the inventor to make an even educated guess as to what quantity of the invented product the market is willing to absorb. Powell merely deals with the licensing aspects of a product life cycle of an invented product.

11. On the other hand, Shkedy generally discloses systems and methods for providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers. A central controller facilitates the buyer/seller transaction by fielding binding offers from buyers, aggregating those offers into group (i.e. pooled) offers and communicating those group offers globally in a format which can be efficiently accessed and analyzed by potential sellers. This system can also effectuate performance of resulting contracts, resolve disputes arising from those contracts, and maintain billing,

collection, authentication, and anonymity (Shkedy, Abstract). In other words, Shkedy fails to accommodate the unique problem in relation to newly invented or developed products, **because it does not allow for potential inventors to meet the demand from various buyers. Nor does it allow potential buyers to search for invented products so as to meet their unique requirements and demand.**

12. More specifically, Shkedy claims a computer based method for facilitating a transaction between at least two buyers, an intermediate, and at least one seller, comprising the steps of: receiving at the intermediate a forward purchase order for at least one item from at least two buyers, the intermediate having a central controller; forwarding a purchase stipulation from the central controller to the at least two buyers responsive to the submitted forward purchase order; upon receiving an acceptance of the purchase stipulation, aggregating the forward purchase order to orders of like kind in a pool to form a pooled purchase order; making the pooled purchase order including conditions of the pool to at least one seller; receiving a bid from at least one seller; verifying the bid with conditions of the pool; if conditions of the pool are satisfied, binding the seller to the intermediate and storing the bid in seller database; selecting a best bid from the database to determine a selected seller; and forwarding confirmations of sale to the at least two buyers and the selected seller (Shkedy, Claim 1). In Shkedy, no step is available for matching the demand of a potential purchaser with the supply of possible invented products. Nor Shkedy anticipates any step for checking the reduction-to-practice aspect of invented products.

13. In the instant invention, the specific needs of the consumers are collectively analyzed and met by sending corresponding orders to predetermined suppliers for the production of inventions. The orders are optimal in terms of quantity and features which are designed to met the specific needs of the registered consumer. The applicant respectfully reiterates that Powell merely deals with processing and grant of online license of patented invention. It fails to deal with the manufacturing or marketing difficulties of patented inventions as a whole.

14. Kuelbs generally discloses a dynamic on-line order gathering system that enables sellers to offer one or a combination of goods whose availability (production and/or shipping) may be economically linked in some ways with other items and which facilitates aggregation of demand across related items so as to enable the ability to

reach **critical mass** of demand for the related goods by a more efficient means than currently available. The method comprises the steps of (a) identifying a product utilizing said distributed data processing system, (b) **soliciting purchase commitments** from potential purchasers over said distributed data processing system; (c) accepting contingent offers which depend upon obtaining a predetermined minimum number of offers before acceptance of said offers; and (d) utilizing at least one visual representation of shipping space available within a standardized shipping volume in said distributed data processing system to communicate over time whether or not sufficient financial commitments have been obtained from said plurality of potential purchasers to fill one or more standard shipping containers. In the instant invention, there is no solicitation to meet a critical mass of demand by potential inventors. Potential inventors merely wish to make sure that their production efforts meet the demand of potential purchasers. This is achieved through storing invention information to the information database of the instant invention. Registered customers are able to view those inventive features through accessing information from the information database. In short, Kuelbs does not deal with invented products, and the related problem of marketing and manufacturing newly invented products. The main difficulty of promoting newly invented products is that no one knows the actual demand and popularity of newly invented products. As a result, when manufacturing effort is too expansive while the actual demand is too low, the inventors would make substantial loss. This will not only discourages inventing new products, but also will deter the flow of newly invented products into the market in general. Eventually, potential purchasers would loss the opportunity to try new products and therefore loss the opportunity to improve upon their daily life.

15. The Examiner appears to reason that since Powell, Shkedy and Kuelbs teach some online marketing systems and methods, it would have been obvious to one skilled in the art to combine them in order to produce the instant invention. But this is clearly **not** a proper basis for combining references in making out an obviousness rejection of the present claims. Rather, **the invention must be considered as a whole and there must be something in the reference that suggests the combination or the modification.** See *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984) ("The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to

suggest the desirability, and thus the obviousness, of making the combination”), In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984), (“The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.”) In the instant invention, all of the cited references fail to deal with newly invented products and their optimal marketing strategy. In fact, the instant invention can allow potential inventors to know demand of particular features so as to invent a product to meet that demand. For example, when particular features are frequently listed in the information database and the results of the surveys, potential inventors (one having inventive skill in the corresponding field) would be prompted by that demand and invent products which meet that long-felt need. Since the demand has already been identified when the inventors invent, the risk in developing newly invented products will be kept to the minimum. These features are inherent in the instant invention but have NOT been anticipated by all of the cited references.

16. Indeed, the only mention of these features is in applicants own specification and claims. Accordingly, it appears that the examiner has fallen victim to the insidious effect of a hindsight analysis syndrome where that which only the inventor taught is used against the teacher in W.L. Gore and Associates v. Garlock, Inc., 220 USPQ 303, 312-313 (Fed. Cir. 1983) cert. denied, 469 U.S. 851 (1984).

17. Regarding all claims: kindly carefully reexamine all claims in light of all references of record. It is the Applicant's view that while prior references exist (e.g., as in Powell, Shkedy and Kuelbs), if one puts the claimed invention out of mind and reviews all of these references for all that they fairly suggest, one would not find any motivation to modify the references of record to thereby attain the claimed invention, which relates to a marketing method and strategy for newly invented products and which are specifically configured to provide particularly advantageous results. While marketing systems in general may be known and/or suggested, the particular claimed configurations are not.

18. The applicant respectfully submits that from a policy standpoint, competitors of the applicant would not manufacture, sell and use the inventions disclosed in either Powell, Shkedy or Kuelbs. Rather, they would manufacture, sell and use the instant invention as claimed in the newly drafted claims 45-60. Since the purpose of a developed patent system is to promote technology advancement and

encouragement of inventions, it is submitted that the rejections set forth in the Office Action should be withdrawn and patent protection of the instant invention should be granted in order to further the common goal of providing incentives for future development in the relevant area of technology.

### **The Cited but Non-Applied References**

19. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

20. A fee in an amount of US\$405.00 is submitted herewith to pay the fee for Request for Continued Examination (RCE). This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 502111.

21. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are requested. Allowance of claims 45-60 at an early date is solicited.

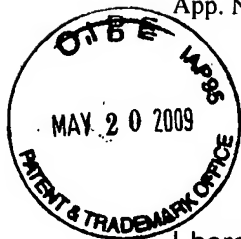
22. Should the examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Raymond Y. Chan', is written over a horizontal line.

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I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 05/18/2009

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Person Signing: Raymond Y. Chan